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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,894	12/18/2001	Steven Wojcik	9726-8U1	5154

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AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
ONE COMMERCE SQUARE, SUITE 2200
2005 MARKET STREET
PHILADELPHIA, PA 19103

EXAMINER

DESANTO, MATTHEW F

ART UNIT PAPER NUMBER

3763

DATE MAILED: 11/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,894

Applicant(s)

WOJCIK, STEVEN

Examiner

Matthew F DeSanto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1, 8, 11, 14, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 1, 8, 11, 14 and 16, "whereby" is not given any patentable weight and should be change to "wherein."

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1, 12, 13, are rejected under 35 U.S.C. 102(b) as being anticipated by Mathiasen (5980506).

Mathiasen disclosed an angled infusion set having a cannula assembly including a cannula housing and a cannula extending from the housing, an inserter housing having a bottom wall, a retainer, and a base member that forms an acute angle that is approximately 30 degrees. (Figures 3 and 4, and entire reference).

4. Claims 1, 12, 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaufman (4966589).

Kaufman disclosed an angled infusion set having a cannula assembly including a cannula housing and a cannula extending from the housing, an inserter housing having a bottom wall, a retainer, and a base member that forms an acute angle that is approximately 30 degrees. (Figures 5 and 6, and entire reference).

5. Claims 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Clement et al. (USPN 5368045).

Clement et al. disclosed an inserter housing, a retainer, a biasing member connected between the retainer and the inserter housing, a first release lever exposed through the housing, as well as wherein the first release lever is biased in a second rotational direction opposite the first rotational direction thus causing the lever to engage and hold the retainer. (Figures 1, 2, 3a-3d, 4a-4d, and entire reference).

Claim Rejections - 35 USC § 103

6. Claims 1, 2, 3, 5, 6, 7, 8, 9, 12, 13, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clement et al. as applied to claims 14 and 15 above and further in view of Mathiasen or Kaufman as applied to claims 1, 12, and 13 above.

Clement et al. disclosed the claimed invention except wherein the lower surface of the base member forms an acute angle with the bottom wall of the inserter housing.

Mathiasen or Kaufman disclosed an inserter with a bottom wall and a base member having a lower surface forming an acute angle.

At the time of the invention it would have been obvious for a person of ordinary skill in the art to combine the disclosed invention of Clement et al. with the teachings of Mathiasen or Kaufman because the angular positioning mechanism helped in permitting insertion at precisely the right location and angle, as well as protect the nurses and doctors from accidental exposure to the needles. (Kaufman Column 2, lines 40-48).

Therefore, it would have been obvious to combine the claimed invention of Clement et al. with the teachings of Mathiasen or Kaufman to obtain the invention as specified in claims 1, 2, 3, 5, 6, 7, 8, 9, 12, 13, 14, and 15.

7. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clement et al. in view of Mathiasen or Kaufman as applied to claims 1, 2, 3, 5, 6, 7, 8, 9, 12, 13, 14, and 15 above, and further in view of Bogart (5562631).

Clement et al. in view of Mathiasen or Kaufman disclose the claimed invention except for a second release member and a second release lever for releasing the cannula assembly from the retainer.

Bogart disclosed a release member comprising a release lever that is pivotally mounted on a retainer, wherein the release lever causes disengagement of the cannula assembly from the retainer. (Figures 1, 2, 13 and 14, and entire reference).

At the time of the invention it would have been obvious for one of ordinary skill in the art to combine the teaches of Clement et al. in view of Mathiasen or Kaufman with

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the teaches of Bogart, because it is well known in the art to use a release mechanism and lever to separate a cannula from a cannula hub.

Therefore, it would have been obvious to combine Clement et al. with Mathiasen or Kaufman with Bogart to obtain the invention as specified in 1-16.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew F DeSanto whose telephone number is 1-703-305-3292. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 1-703-308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9302 for regular communications and 1-703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-0858.



Matthew DeSanto
Art Unit 3763
November 1, 2002



ANH TUAN T. NGUYEN
PRIMARY EXAMINER
11/4/02